

Appendix A. Fremont-Madison Conveyance Act

Public Law 108–85
108th Congress

An Act

To authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

Sept. 30, 2003
[S. 520]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fremont-Madison Conveyance Act”.

Fremont-Madison
Conveyance Act.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DISTRICT.**—The term “District” means the Fremont-Madison Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF FACILITIES.

(a) **CONVEYANCE REQUIREMENT.**—The Secretary of the Interior shall convey to the Fremont-Madison Irrigation District, Idaho, pursuant to the terms of the Memorandum of Agreement (MOA) between the District and the Secretary (Contract No. 1425–01–MA–10–3310), all right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water distribution and drainage system that is operated or maintained by the District for delivery of water to and drainage of water from lands within the boundaries of the District as they exist upon the date of enactment of this Act, consistent with section 8.

(b) **REPORT.**—If the Secretary has not completed any conveyance required under this Act by September 13, 2004, the Secretary shall, by no later than that date, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

Deadline.

SEC. 4. COSTS.

(a) **IN GENERAL.**—The Secretary shall require, as a condition of the conveyance under section 3, that the District pay the administrative costs of the conveyance and related activities, including the costs of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as described in Contract No. 1425–01–MA–10–3310.

(b) **VALUE OF FACILITIES TO BE TRANSFERRED.**—In addition to subsection (a) the Secretary shall also require, as a condition of the conveyance under section 3, that the District pay to the

United States the lesser of the net present value of the remaining obligations owed by the District to the United States with respect to the facilities conveyed, or \$280,000. Amounts received by the United States under this subsection shall be deposited into the Reclamation Fund.

SEC. 5. TETON EXCHANGE WELLS.

(a) **CONTRACTS AND PERMIT.**—In conveying the Teton Exchange Wells pursuant to section 3, the Secretary shall also convey to the District—

(1) Idaho Department of Water Resources permit number 22–7022, including drilled wells under the permit, as described in Contract No. 1425–01–MA–10–3310; and

(2) all equipment appurtenant to such wells.

(b) **EXTENSION OF WATER SERVICE CONTRACT.**—The water service contract between the Secretary and the District (Contract No. 7–07–10–W0179, dated September 16, 1977) is hereby extended and shall continue in full force and effect until all conditions described in this Act are fulfilled.

SEC. 6. ENVIRONMENTAL REVIEW.

Prior to conveyance the Secretary shall complete all environmental reviews and analyses as set forth in the Memorandum of Agreement referenced in section 3(a).

Effective date.

SEC. 7. LIABILITY.

Effective on the date of the conveyance the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section may increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code.

SEC. 8. WATER SUPPLY TO DISTRICT LANDS.

The acreage within the District eligible to receive water from the Minidoka Project and the Teton Basin Projects is increased to reflect the number of acres within the District as of the date of enactment of this Act, including lands annexed into the District prior to enactment of this Act as contemplated by the Teton Basin Project. The increase in acreage does not alter deliveries authorized under the District's existing water storage contracts and as allowed by State water law.

Deadline.

SEC. 9. DROUGHT MANAGEMENT PLANNING.

Within 60 days of enactment of this Act, in collaboration with stakeholders in the Henry's Fork watershed, the Secretary shall initiate a drought management planning process to address all water uses, including irrigation and the wild trout fishery, in the Henry's Fork watershed. Within 18 months of enactment of this Act, the Secretary shall submit a report to Congress, which shall include a final drought management plan.

Reports.

SEC. 10. EFFECT.

(a) **IN GENERAL.**—Except as provided in this Act, nothing in this Act affects—

(1) the rights of any person; or

(2) any right in existence on the date of enactment of this Act of the Shoshone-Bannock Tribes of the Fort Hall Reservation to water based on a treaty, compact, executive order, agreement, the decision in *Winters v. United States*, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine”), or law.

(b) CONVEYANCES.—Any conveyance under this Act shall not affect or abrogate any provision of any contract executed by the United States or State law regarding any irrigation district’s right to use water developed in the facilities conveyed.

Approved September 30, 2003.

LEGISLATIVE HISTORY—S. 520:

SENATE REPORTS: No. 108–62 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 149 (2003):

June 16, considered and passed Senate.

Sept. 16, considered and passed House.



**Appendix B. Memorandum of Agreement: Reclamation
and Fremont-Madison Irrigation District**

MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
AND
FREMONT - MADISON IRRIGATION DISTRICT

This Memorandum of Agreement (MOA) is made pursuant to the Reclamation Act of June 17, 1902 (32 Stat.388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, acting through the Bureau of Reclamation, Department of the Interior, hereinafter referred to as Reclamation, and the FREMONT-MADISON IRRIGATION DISTRICT, a public corporation organized under the laws of the State of Idaho, with its principal place of business in St. Anthony, Idaho, hereinafter referred to as FMID, and;

WHEREAS, FMID has stated its intent to seek Congressional authority to transfer title of the United States' ownership interests in Cross Cut Diversion Dam and Cross Cut Canal, and the Teton wells including all well permits and water right permits (identified under permit number 22-7022 by the Idaho Department of water Resources), both drilled and undrilled, together with all of the Reclamation's water right interests associated with such well permits, and any other associated facilities and real property pertaining to Cross Cut Diversion Dam and Cross Cut Canal, and the Teton wells held by the United States for the benefit of FMID, and;

WHEREAS, in addition to the existing Teton wells, FMID has stated its intent to develop such additional wells (using said permit number 22-7022) as may be required to provide a supplemental water supply to the lands of its spaceholders in years when there is an inadequate supply of water, and;

WHEREAS, it is also FMID's intent to give the undeveloped portion of permit number 22-7022, not needed to provide a supplemental water supply to its spaceholders, to the Idaho Water Resources Board for the Water Board's future use, and;

WHEREAS, FMID has also stated its intent to demonstrate its capacity for owning and operating these facilities, and;

WHEREAS, Reclamation has a responsibility to protect the interests of the United States and its public's interests in the resources, which are supported by Reclamation's ownership of the facilities and real property proposed to be transferred, and;

WHEREAS, Reclamation has the ultimate responsibility to approve environmental analyses, prepared by FMID or its contractors, associated with such a transfer and has adopted guidelines designed to assist FMID in implementing a successful transfer, and;

WHEREAS, FMID and Reclamation agree to cooperate in a joint effort to evaluate the environmental impacts, and other elements associated with such a transfer and to prepare associated analyses required for the transfer, and;

WHEREAS, Reclamation has no authorization or funds appropriated for paying costs associated with this title transfer and Reclamation will not be able to reimburse FMID for any of its expenditures without Congressional authorization, and;

WHEREAS, FMID and Reclamation agree to proceed, as applicable, with title transfer under the August 1995 *Framework for the Transfer of Title* process, although FMID does not necessarily agree to the exact sequence of events as set forth in said *Framework*;

NOW THEREFORE, the parties agree as follows:

1. Reclamation will be responsible for the following actions that may be undertaken in cooperation with FMID:

(a) Assist FMID in the planning and completion of required environmental compliance activities to implement the proposed Federal action, including drafting a scoping document. Reclamation will also assist FMID with any planned scoping meetings and will attend the scoping meetings set up by FMID.

(b) Following scoping and in consultation with FMID develop the alternatives for evaluation and analysis in Reclamation's National Environmental Policy Act (NEPA) documents and Endangered Species Act (ESA) compliance actions.

(c) Review the work of FMID and/or any consultants engaged by FMID to assure that the applicable procedural requirements of NEPA, ESA and other applicable State and Federal laws are met as required. Reclamation reserves the right to approve any consultant retained by FMID in connection with the NEPA process.

(d) Review NEPA documentation prepared by FMID to determine the appropriate level of NEPA compliance required for this action. As lead agency for NEPA compliance, final approval of NEPA documentation will be provided when determined to be satisfactory.

(e) Request and pursue consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act.

(f) Identify and/or inventory and consult with Tribes on Indian Trust Assets and

Traditional Cultural Properties and ensure the Secretary's Native American Trust Responsibilities are met.

(g) Conduct an asset valuation to determine the value of the features to be transferred and any revenue streams thereof. Said asset valuation has previously been performed and value determined by Reclamation.

(h) Provide for an independent financial review of the adjusted asset value, if required.

(i) Complete hazardous waste surveys on all Reclamation lands intended for title transfer.

(j) Provide copies, if so requested, of drawings and non-privileged legal documents currently in Reclamation's possession, to FMID that are associated with the lands, third party agreements, Reclamation's water rights, rights-of-way, and facilities to be included in the title transfer.

(k) Perform other technical or administrative tasks associated with the title transfer process.

(l) Review draft Federal authorization language and other transfer documents prepared by FMID.

(m) Provide FMID with projections and/or summaries of expenses incurred in connection with the title transfer process upon the request of FMID. Further, Reclamation will notify FMID when Reclamation's total obligations in connection with the title transfer (including their 50 percent share of the costs associated with NEPA) exceed \$80,000 and provide a summary of obligations, expenditures and estimated cost to complete.

(n) Ensure that all contracts or obligations entered into relating to this MOA be revocable, wherein the contracts or obligations may be terminated at any time upon the request of FMID, and FMID will only be responsible for costs and expenditures incurred to the date of the termination and any contract termination cost.

(o) Provide copies, if so requested, to FMID of all contracts, documents, invoices and other writings which evidence obligations pursuant to this MOA.

2. The FMID will be responsible, subject to Reclamation's review and approval as appropriate, for the following:

(a) Ensure completion of all activities required to comply with NEPA, ESA and other applicable State and Federal laws as required, including the draft biological assessment.

(b) Arrange all public involvement; as deemed necessary and appropriate by both parties, including meeting places, mailings to all key participants, and notices to the public as required by Federal regulations.

(c) Complete any required cultural resource surveys, prepare a draft cultural resource report, assist in developing any cultural resource agreement with the State, and submit these documents to Reclamation for review and approval.

(d) Draft Federal authorization language for the proposed title transfer of facilities as determined appropriate by and through this transfer process.

(e) Any land surveys needed for the transfer of the project or related facilities shall be at the expense of FMID.

(f) Prepare drafts of the necessary legal documents including any associated agreements involving Federal, State, local and Tribal issues. FMID is responsible for officially contacting all interested local, State, Tribal and Federal agencies to determine if they have concerns or jurisdictional obligations which need to be met. FMID will provide Reclamation a report of these contacts and the agency responses.

3. Areas of mutual responsibility:

(a) Reclamation and FMID will appoint representatives to coordinate the transfer analysis and documentation process. All FMID requests to Reclamation relating to the transfer will go through Stuart Stanger, Deputy Area Manager, Reclamation, Burley, ID. All Reclamation requests to FMID relating to the transfer will go through Dale Swensen, Manager, FMID, St. Anthony, ID.

(b) Reclamation and FMID will cooperate to conduct the process in a manner that ensures appropriate public and spaceholder participation.

(c) Reclamation and FMID agree to use, if appropriate, a quit claim deed to transfer title of facilities, water right interests held by the United States' Secretary of the Interior for Reclamation purposes, real property, and other interests from Reclamation to FMID, if title is transferred.

(d) Reclamation and FMID agree to work cooperatively to determine final value of the features to be transferred based upon previous Reclamation asset valuation and any revenue streams thereof.

(e) Reclamation and FMID agree that any of the responsibilities for either party may become the responsibility of the other party if agreed to by both parties in writing, unless prohibited by law or regulation.

4. Costs

(a) Subject to the terms of this MOA, FMID agrees to cost share up to 50 percent of all transfer costs associated with applicable procedural requirements of the NEPA, ESA, other Federal cultural resource laws, and other applicable State and Federal laws as required. FMID agrees that it shall be responsible for paying, in advance, all costs incurred by it and/or Reclamation associated with the tasks described herein for title transfer, except for those costs for which Reclamation agrees to by subsequent written agreement with the FMID. Any subsequent agreement will be documented as an amendment to this agreement. FMID intends to seek a cap of its share of the administrative costs in the legislation.

(b) Reclamation may contract with another person or entity for any of the obligations described herein. Reclamation will ensure that the costs billed to FMID shall be actual costs, including Reclamation's actual costs for administering the contracts, if Reclamation contracts with another person or entity for any of the obligations herein.

(c) FMID will pay in advance for Reclamation's reasonable costs for coordination, review, public meetings, oversight, and other reasonable costs related to the title transfer process.

(d) FMID will pay in advance Reclamation's reasonable costs associated with cultural resource compliance actions, NEPA compliance, inspection of facilities, hazardous waste surveys, assistance by Reclamation in all documents related to real property transfer, and other reasonable Reclamation costs as described herein.

(e) Reclamation and FMID agree that payment in advance for Reclamation costs or completion of any or all aspects of this agreement does not guarantee that title will be transferred for any or all of the facilities named in this agreement or that transfer of title will be approved by Reclamation and/or the Congress of the United States. Notwithstanding the above Reclamation will do everything it can to facilitate a transfer.

(f) Those costs for which the FMID will be fully responsible for in the proposed title transfer will include, but not limited to, the following (for each of which FMID intends to seek the right of reimbursement through the legislative process):

(i) Inspection of facilities designated herein to be transferred, if required, and review of property and lands, asset valuation, identification of Indian Trust Assets, hazardous material surveys, and other activities that are associated with or possibly impacted by the proposed transfer of Federal Reclamation facilities and associated lands.

(ii) Reclamation's salary and overhead costs accrued for activities associated with this MOA.

(iii) Travel by Reclamation staff, including per diem and transportation costs, as

required for the above actions or activities and/or the development and negotiation of the terms for the proposed title transfer.

(iv) Photocopying and mailing by Reclamation of documents related to the proposed title transfer (e.g., the proposed draft agreement for public review, comment, and public notification).

(v) Title transfer recording costs.

(g) Reclamation agrees to allocate authorized and appropriated funds as may become available for the performance of certain tasks which are described herein:

(i) Reclamation and FMID agree to work in a prudent manner to minimize costs for activities associated with this agreement.

5. Payment

(a) Reclamation will establish a unique cost account to track and account for the cost and services provided under the terms of this MOA.

(b) FMID submitted an advance payment to Reclamation in the amount of \$25,000 on November 20, 1998 (March 31, 2001 credit balance of \$21,148.60) which will be held by Reclamation in account number A1R1751 and will be applied toward Reclamation's costs, upon FMID's signature of this MOA (Contributed Funds Act 42USC345). Payment has been made payable to Bureau of Reclamation, to the attention of Reclamation Grants Management Specialist, PN-6317, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706.

(c) FMID will maintain a balance of at least \$5,000 in this account to be used to reimburse Reclamation's costs; and

(d) Reclamation will contact FMID prior to the first of each month to discuss (consult) and itemize anticipated Reclamation actions and expenses for the upcoming month, and upon Reclamation's submittal of the itemized anticipated actions and costs to FMID, FMID shall promptly pay Reclamation for the anticipated reimbursable costs.

(e) Following completion of title transfer or cessation (for whatever reason) of the title transfer process, Reclamation will refund within 60 days to FMID any unexpended advanced funds identifiable as excess of the total estimated costs.

6. General Provisions:

(a) All responsibilities of either or both parties required above shall be performed only after mutual agreement and reasonable notification to the other party.

(b) FMID and Reclamation will work in a cooperative manner throughout the legislative process.

(c) The parties pledge their individual good faith to seek a prompt and fair agreement on all issues relating to a proposed transfer described in this Agreement. FMID agrees that in order to facilitate a facility transfer, FMID must address all substantive issues in the context of Congressional hearings. In the event that an agreement on a particular matter cannot be promptly resolved, the parties pledge to continue to work cooperatively on those matters relating to a title transfer for which there is no disagreement.

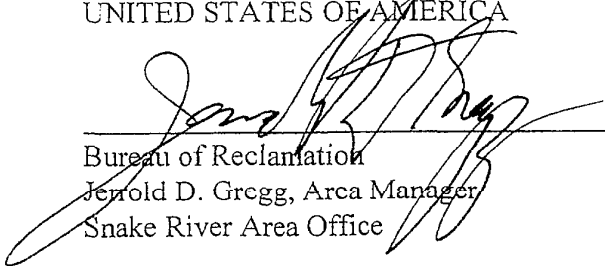
(d) This MOA shall become effective on the date of the last signature hereto. This MOA may be modified, amended or terminated upon mutual agreement of the parties hereto, but in any event will terminate two (2) years from the date of the MOA is signed unless renegotiated and or renewed at that time through mutual consent of both parties. Either party may terminate its obligations and duties under this MOA at any time upon 30 days written notice to the other party. All duties and obligations of both parties under this MOA will cease at that time except as the MOA provisions relate to accounting, termination of contracts and reimbursing the parties' expenses.

(e) Nothing herein shall be construed to obligate the Bureau of Reclamation to expend or involve the United States of America in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

(f) No Member or delegate to Congress, or resident Commissioner, shall be admitted to any share or to be part of this MOA or to receive any benefit that may arise out of it other than as a water user or landowner in the same manner as other water user or landowner.

IN WITNESS WHEREOF, the parties hereto have executed this MOA as of the last date and signature below.

UNITED STATES OF AMERICA


Bureau of Reclamation
Jerrold D. Gregg, Area Manager
Snake River Area Office

9/13/2001
Date

FREMONT-MADISON IRRIGATION DISTRICT

Jeffery Dell Raybould 9-6-01
Jeffery Dell Raybould, Chairman Date
Fremont-Madison Irrigation District,
Board of Directors

STATE OF IDAHO)
: SS
County of Fremont)

On this 6 day of September, 20 01, before me, LaDonna Henman
a Notary Public, personally appeared Jeffrey Dell Raybould known to me to be the Chairman
of the FREMONT-MADISON IRRIGATION DISTRICT, BOARD OF DIRECTORS, and the
person who executed the within and foregoing instrument and acknowledged to me that he
executed the same for said District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal as of the day and year first above written.

LaDonna Henman

Notary Public in and for the
State of Idaho
Residing at: Regley ID
My commission expires: 6-1-05



STATE OF IDAHO)

: ss

County of Ada)

On this 13th day of SEPTEMBER, 2001, personally appeared before me JERROLD D. GREGG, to me known to be the official of the UNITED STATES OF AMERICA that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

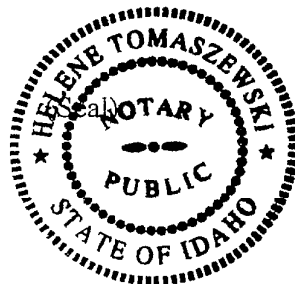
Helene Tomaszewski

Notary Public in and for the

State of Idaho

Residing at: MERIDIAN

My commission expires: 01-16-2002



COPY

Amendment No. 1 to
Memorandum of Agreement No. 1425-01-MA-10-3310

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Upper Snake River Storage Division, Minidoka Project – Lower Teton Division Teton Basin Project, Idaho

AMENDATORY AGREEMENT BETWEEN THE UNITED STATES AND THE
FREMONT-MADISON IRRIGATION DISTRICT FOR THE TRANSFER OF TITLE OF
CERTAIN FACILITIES TO FREMONT- MADISON IRRIGATION DISTRICT

THIS AGREEMENT, made this 14 day of May, 2003, pursuant to the Act of
June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, between the
UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the
Contracting Officer executing this agreement, and the FREMONT-MADISON IRRIGATION
DISTRICT, an irrigation district duly organized and existing under and by virtue of the laws of the
State of Idaho, hereinafter referred to as the District,

WITNESSETH, THAT:

2. WHEREAS, the District and the United States have heretofore entered into Memorandum
of Agreement No. 1425-01-MA-10-3310, dated September 13, 2001 (hereinafter referred to as the
2001 Agreement), which provided for specific requirements and responsibilities to complete the
necessary actions to transfer title to the Cross Cut Diversion Dam, Cross Cut Canal (Upper Snake
River Storage Division, Minidoka Project) and the Teton Exchange Wells (Lower Teton Division
Teton Basin Project, Idaho) to the District; and

3. WHEREAS, the 2001 Agreement is due to expire on September 13, 2003, and the District
has requested a 1-year extension of the 2001 Agreement by the United States in recognition of

ongoing efforts by the District to seek Congressional authority to transfer title of the United States' ownership interests for the aforementioned facilities; and

4. WHEREAS, the United States, in recognition of the District's ongoing transfer of title efforts is willing to extend the 2001 Agreement for a period of one year;

NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained, it is mutually agreed by and between the parties hereto as follows:

Former Agreement to Remain in Effect

5. Except as herein specifically amended, all provisions of the 2001 Agreement shall remain in full force and effect.

Term of Agreement


6. This agreement shall be in force for a term of 1 year commencing as of September 13, 2003, and ending September 13, 2004.

Notices

7. Any notice, demand, or request authorized or required by this agreement shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, Snake River Area Office, Bureau of Reclamation, 214 Broadway Avenue, Boise, ID 83702-7298, and on behalf of the United States, when mailed, postage prepaid, or delivered to the President, Board of Directors of the Fremont-Madison Irrigation District, PO Box 15, St. Anthony, Idaho 83445. The designation of the address or the address may be changed by notice given in the same manner as provided in this article for other notices.

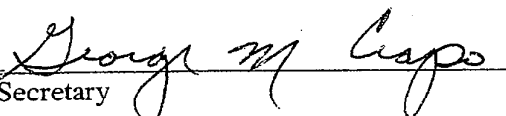
IN WITNESS WHEREOF, the parties hereto have signed their names as of the day and year first above written.

FREMONT-MADISON IRRIGATION DISTRICT

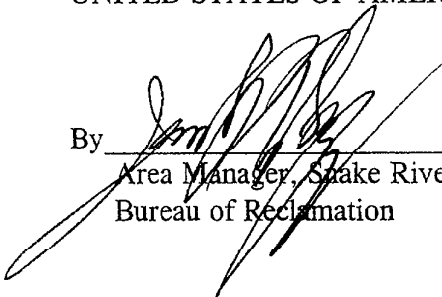
By 
President, Board of Directors

(SEAL)

ATTEST:


Secretary

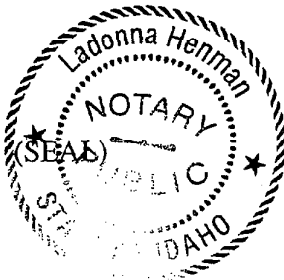
UNITED STATES OF AMERICA

By 
Area Manager, Snake River Area Office,
Bureau of Reclamation

STATE OF IDAHO)
 : ss
County of Fremont)

On this 8 day of May, 2003, before me, a Notary Public,
personally appeared Jeff Raybould and George Chaps,
known to me to be, respectively, the President and
Secretary of the FREMONT-MADISON IRRIGATION DISTRICT, and the persons who executed
the within and foregoing instrument and acknowledged to me that they executed the foregoing
instrument in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of
the day and year first above written.



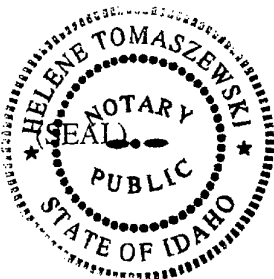
Ladonna Henman
Notary Public in and for the
State of Idaho

Residing at: Highway
My commission expires: 6-1-05

STATE OF IDAHO)
 : ss
County of Ada)

On this 14th day of MAY, 2003, personally appeared before
me JERROLD D. GREGG, to me known to be the official of the UNITED
STATES OF AMERICA that executed the within and foregoing instrument and acknowledged said
instrument to be the free and voluntary act and deed of said United States, for the uses and
purposes therein mentioned, and on oath stated that (mark one) he she was authorized to
execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of
the day and year first above written.



Helene Tomaszewski
Notary Public in and for the
State of Idaho
Residing at: VERIDIAN
My commission expires: 01-16-2008

**Appendix C. Memorandum of Agreement: Fremont-
Madison Irrigation District and Twin Falls Canal Company
and North Side Canal Company**

AGREEMENT

This agreement, made this 15th day of March, 2002, between the Fremont-Madison Irrigation District, an irrigation district duly organized and existing under and by virtue of the laws of the State of Idaho, hereinafter referred to as the "District," and Twin Falls Canal Company and North Side Canal Company, Ltd., irrigation corporations in good standing under the laws of the State of Idaho, hereinafter referred to as "TFCC" and "NSCC" respectively;

WITNESSETH

WHEREAS the District seeks Title Transfer from the United States of certain facilities used by the District in the operation of the District's project including wells developed pursuant to Idaho Water Permit No. 22-07022 which wells are the subject of an agreement with the U.S. Bureau of Reclamation (USBR) dated September 16, 1977; and

WHEREAS the District also seeks the transfer of any developmental rights still existing under Water Right No. 22-07022 for the purpose of developing an adequate supply of supplemental water to satisfy the District's irrigation needs in short water years, to an annual total diversion of 80,000 a/f/a, up from the 35,000 a/f/a which is the maximum diverted by the District in any one year under the September 16, 1977, agreement; and

WHEREAS TFCC and NSCC have concerns about the future development by the District and potential injury to their water rights and water supplies; and

WHEREAS the parties wish to delineate their agreement in writing;

NOW, THEREFORE, in consideration of the mutual covenants and stipulations herein contained, the parties agree as follows:

1. District's Covenant and Agreement With TFCC and NSCC

District covenants with TFCC and NSCC not to develop and divert more than a total of 80,000 a/f/a of water for irrigation purposes from developed wells and those developed in the future under Permit No. 22-07022. Any additional water developed beyond the present 35,000 af shall be applied only to acres irrigated by the District as of the date of this agreement, and only as a supply to supplement traditional supplies of natural flow and storage.

473562
Microfilm No. _____
At _____ Day Mar 2002
At 12:00 O'clock P
ABSTRACT
FREMONT CO. RECORDER
Fee \$ 15
On request of _____
Fremont Madison
Pr Box 15 P.A. & B.

2. Mitigation Plan

The development of wells additional to the existing five (5) wells under Permit No. 22-07022 shall not occur until the District has developed a plan [for wells other than the presently existing five (5) wells] which mitigates for injury of TFCC, NSCC, and other irrigation water users and which is approved by the Idaho Department of Water Resources.

3. Development of Permit No. 22-07022 to Above 80,000 a/f/a

There shall be no development of any water above the 80,000 a/f/a under Permit No. 22-07022 contemplated by this agreement without the express written consent of the parties, and then only if the purpose is to benefit the parties to this agreement.

4. Support

TFCC and NSCC agree to support the Resolution attached hereto as Exhibit A at the annual meeting of the Idaho Waterusers Association and a Congressional bill on the transfer of Water Permit No. 22-07022 consistent with this agreement.

5. Extension

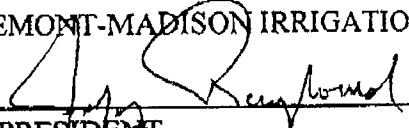
TFCC and NSCC agree not to oppose an extension of time request to IDWR by the District to give the District an opportunity to make beneficial use of the water.

6. Binding

The provisions of this agreement shall apply to and bind the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this agreement effective the day and year first above written.

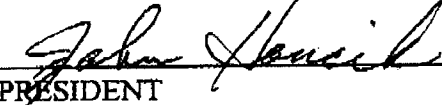
FREMONT-MADISON IRRIGATION DISTRICT

By: 
PRESIDENT

Attest:


SECRETARY

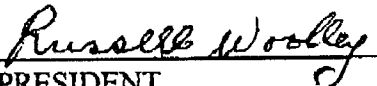
TWIN FALLS CANAL COMPANY

By: 
PRESIDENT

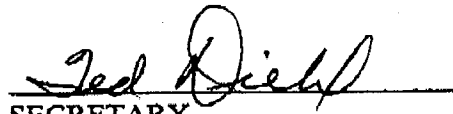
Attest:


SECRETARY

NORTH SIDE CANAL COMPANY, LIMITED

By: 
PRESIDENT

Attest:


SECRETARY

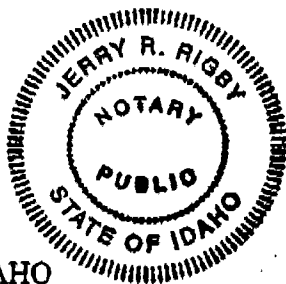
STATE OF IDAHO)

County of)

FREMONT

On this 7th day of March, 2002, before me, a Notary Public for the State of Idaho, personally appeared Executive Secretary of FREMONT-MADISON IRRIGATION DISTRICT, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
 NOTARY PUBLIC FOR IDAHO
 Residing at REXBURG
 My Commission Exp. 11-09-05

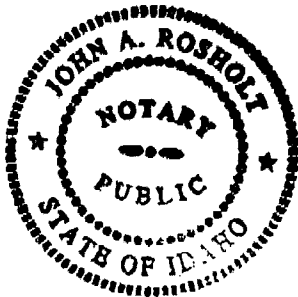
STATE OF IDAHO)

County of)

Twin Falls

On this 12th day of March, 2002, before me, a Notary Public for the State of Idaho, personally appeared AND Secretary PRESIDENT OF TWIN FALLS CANAL COMPANY, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



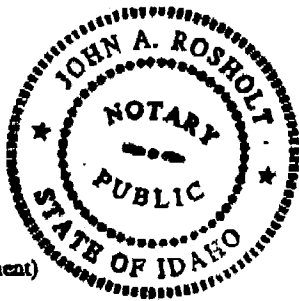
John A. Rosholt
 NOTARY PUBLIC FOR IDAHO
 Residing at Twin Falls
 My Commission Exp. 2006

STATE OF IDAHO)

County of Jerome)

On this 15th day of March, 2002, before me, a Notary Public for the State of Idaho, personally appeared PRESIDENT AND SECRETARY OF NORTH SIDE CANAL COMPANY, LTD., known or identified to me, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



(find/agreement)

John A. Rosholt
NOTARY PUBLIC FOR IDAHO
Residing at Twini Falls
My Commission Exp. 2006

